IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 280 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DIPAKKUMAR JAYANTILAL KANSARA

Versus

STATE OF GUJARAT & ANR

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Appearance :

MR HR PRAJAPATI for Applicant
MR KC SHAH APP for Respondent No.1 - STATE
MR JB PARDIWALA for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 02/02/2006

ORAL JUDGMENT

1.Heard learned advocate Mr.H.R.Prajapati for the applicant, learned APP Mr.K.C.Shah for the respondent No.1 – State of Gujarat and learned advocate Mr.J.B.Pardiwala for the respondent No.2.

2.A complaint against the present applicant came to be filed by the present respondent No.2 under Section 138 of the Negotiable Instruments Act which was registered as Criminal Case No.1836 of 2000 before the Judicial Magistrate (F.C.), Gandevi. After full-fledged trial, learned Judicial Magistrate (F.C.), Gandevi was pleased to convict the present applicant for the charge under Section 138 of the Negotiable Instruments Act and he was sentenced to undergo imprisonment till raising of the Court and to pay a fine of Rs.2,000/-. The applicant was also directed to pay compensation to the tune of Rs.2,25,000/-. The said judgment and order which is dated 30th March, 2002 came to be

challenged by the present applicant in Criminal Appeal No.32 of 2002 before the Court of Sessions at Navsari and vide judgment and order dated 29th March, 2003, the learned Additional Sessions Judge, Navsari dismissed Criminal Appeal No.32 of 2002 preferred by the present applicant and hence, this Criminal Revision Application.

3.Learned advocate Mr.H.R.Prajapati for the applicant - accused and learned advocate Mr.J.B.Pardiwala for the respondent No.2 – original complainant, both jointly make a statement that the parties have entered into compromise and the complainant is fully paid the amount of the cheque and, therefore, recording compromise, this Criminal Revision Application is required to be disposed of. Their joint statement is recorded.

4.The compromise arrived at by the complainant and accused is recorded and consequently, the order passed by the learned Judicial Magistrate

(F.C.), Gandevi on 30th March, 2002 in Criminal Case No.1836 of 2000 convicting the present applicant as well as sentencing him and directing to pay compensation and the judgment and order passed by the learned Additional Sessions Judge at Navsari on 29th March, 2003 in Criminal Appeal No.32 of 2002 confirming the judgment and order of learned Judicial Magistrate (F.C.) at Gandevi, both are set aside and the present applicant is acquitted in Criminal Case No.1836 of 2000 for the charges legelled against him under Section 138 of the Negotiable Instruments Act.

5. In view of the above, this Criminal Revision Application stands disposed of. Rule is discharged. An amount of fine Rs.2,000/- paid by the applicant before the trial Court be refunded to the applicant.

[J. R. VORA,J.]

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